

To: "Nepstad, Michael G SPK" [Michael.G.Nepstad@usace.army.mil]
Cc: CN=Karen Schwinn/OU=R9/O=USEPA/C=US@EPA;CN=Tom Hagler/OU=R9/O=USEPA/C=US@EPA[]; N=Tom Hagler/OU=R9/O=USEPA/C=US@EPA[]
Bcc: []
From: CN=Erin Foresman/OU=R9/O=USEPA/C=US
Sent: Fri 5/6/2011 5:44:08 PM
Subject: RE: BDCP EIS Alternatives

how do you all feel about this letter following a NEPA/404-style format? obviously it won't contain language about an mou but it could contain language about the importance of integrating nepa and cwa 404, the verbal endorsement by state and federal leaders, and then follow with our advice for creating a robust nepa document.

if that sounds okay to you, i can draft it and hand it off to you three by cob monday. tim would be another good person to get input from on this. he's been here before.

Erin Foresman
Environmental Scientist & Policy Coordinator,
US EPA Region 9 C/O Army Corps of Engineers
650 Capitol Mall Suite 5-200, Sacramento, CA 95814
Phone: (916) 557 5253, Fax: (916) 557 6877

<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>

From: "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>
To: Karen Schwinn/R9/USEPA/US@EPA, Erin Foresman/R9/USEPA/US@EPA
Cc: Tom Hagler/R9/USEPA/US@EPA
Date: 05/06/2011 09:22 AM
Subject: RE: BDCP EIS Alternatives

I'm out mom, tues and fri but I've got a blackberry. If someone other than me could cut a draft Mon or tues, I'd get comments back right away and I'd like us to have letter signed and out Wednesday.

Michael G. Nepstad
Deputy Chief, Regulatory Division
US Army Corps of Engineers, Sacramento District
650 Capitol Mall, Suite 5-200
Sacramento, California 95814
(916) 557-7262 Fax:(916) 557-6877
michael.g.nepstad@usace.army.mil

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-----Original Message-----

From: Schwinn.Karen@epamail.epa.gov [mailto:Schwinn.Karen@epamail.epa.gov]

Sent: Friday, May 06, 2011 9:15 AM

To: Nepstad, Michael G SPK; Foresman.Erin@epamail.epa.gov

Cc: Hagler.Tom@epamail.epa.gov

Subject: Re: BDCP EIS Alternatives

I agree Mike. Though I am willing to accept their offer of a briefing (because we've been asking forever what they have to share with us) and then writing to document our reaction, which I was assuming would not be concurrence - can't imagine that we'd get the level of information we'd need, particularly on operations. I see this as an opportunity to clarify a lot of what we've been saying. A joint letter would be ideal. I understand you are out next week? Do you have time to start it? Then we could work with MJ to finalize next week?

I'm working at home if you guys want to discuss (b) (6)

----- Original Message -----

From: Karen Schwinn

Sent: 05/06/2011 12:14 PM EDT

To: "Michael G SPK Nepstad" <Michael.G.Nepstad@usace.army.mil>; Erin Foresman

Cc: Tom Hagler

Subject: Re: BDCP EIS Alternatives

Here's my thoughts:

State and Lead federal Agencies want to finalize the alternatives in the BDCP EIS on May 19th.

This means the following:

1) The NEPA/404 integration MOU which I haven't even drafted yet is now totally moot. The purpose of such a MOU is to ensure the NEPA document has the alternatives analysis needed to provide NEPA coverage for the Corps permitting action. In our High Speed Train MOU, the only steps left after the alternatives have been selected is to process our permit application; all corps involvement in the EIS is done at that point.

2) Any additional alternatives I would be likely to ask be in the NEPA

document would be those which appeared likely to reduce impacts of the proposed alternative, which seemed likely to be a potential LEDPA, which were outside the range of alternatives (operationally or footprint) of the current alternatives, and/or were unique enough that it merited its own description in the NEPA document. Since they haven't provided a description of the proposed project for permitting, any level of description or analysis of impacts (operationally or footprint), and a description of the present range of alternatives, it's really not possible to know if additional alternatives or sub-alternatives need to be in the EIS or not.

3) I have no idea who is on the executive committee (agencies and individuals) and I do not know what gives them their authority. I do know that the Corps is not on the executive committee and the Corps has not delegated any of its regulatory responsibilities to any other agency, party or person.

4) I don't want the Corps to agree to anything for May 19th. If the State and Lead federal Agencies decide on things which work for them, and those decisions are later shown not to work for the Corps, then there's going to be delays and re-do's, because it has to meet the Corps needs for us to be able to use the EIS.

I now am also concerned that the State and Lead federal Agencies are really saying that they are done with their range of analysis for any purpose and are going to expect that all Corps permit decisions will be based solely on their analysis with no additional considerations of changes or new alternatives for LEDPA, etc.

Should we write a joint letter that "We have not been provided the time and the level of detail to determine, under NEPA and the Clean Water Act, the adequacy of alternatives finalized by the 'executive committee' consisting of State and Lead federal Agencies." Or perhaps we should just tell Nawi? I really don't see a point to a briefing by Reclamation since they have no detail to provide.

Michael G. Nepstad
Deputy Chief, Regulatory Division
US Army Corps of Engineers, Sacramento District 650 Capitol Mall, Suite 5-200
Sacramento, California 95814
(916) 557-7262 Fax:(916) 557-6877
michael.g.nepstad@usace.army.mil

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-----Original Message-----

From: Nawi, David [mailto:David_Nawi@ios.doi.gov]

Sent: Thursday, May 05, 2011 5:38 PM

To: Nepstad, Michael G SPK; Schwinn.Karen@epamail.epa.gov

Cc: Idlof, Patricia S; Michael Tucker; Castleberry, Dan; Barajas, Federico; Fry, Susan M

Subject: BDCP EIS Alternatives

Karen, Mike - I was just at a BDCP meeting (Executive Committee) at which there was considerable discussion of the alternatives to include in the EIS/EIR. The lead agencies are scheduled to meet Tuesday of next week to try to come to closure on the alternatives, and the Executive Committee expects to hear about a "final decision" on alternatives when they next meet on May 19. (They think the decision is theirs - not the case even though they are paying for it.)

By this email, I am requesting that Patti brief you on where things stand and where they appear to be going. If you have any questions or concerns or want to add to or modify the alternatives in the DEIS, this is the time to bring those forward.

David